

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF SOUTH CAROLINA

Kevin R. Gladden,	)	C/A No. 9:09-615-JFA-BM
	)	
Plaintiff,	)	
v.	)	<b>ORDER</b>
	)	
Warden of Elmira,	)	
	)	
Defendant.	)	
_____	)	

The *pro se* plaintiff, Kevin R. Gladden, initiated this action pursuant to 42 U.S.C. § 1983 alleging a “scheme to control me by jails and authorities of in-house workers.” The defendant Warden of Elmira appears to have been the warden of a New York state prison when the defendant was convicted in 1973 in Queens, New York.

The Magistrate Judge assigned to this action<sup>1</sup> has prepared a Report and Recommendation wherein he suggests that this court should summarily dismiss the complaint as frivolous and for failure to state a claim on which relief can be granted. The Magistrate Judge also opines the action should be dismissed pursuant to *Heck v. Humphrey*, 512 U.S. 477 (1994) as the plaintiff’s 1973 convictions were not overturned.

The Report sets forth in detail the relevant facts and standards of law on this matter,

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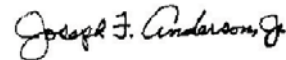
<sup>1</sup> The Magistrate Judge’s review is made in accordance with 28 U.S.C. § 636(b)(1)(B) and Local Civil Rule 73.02. The Magistrate Judge makes only a recommendation to this court. The recommendation has no presumptive weight, and the responsibility to make a final determination remains with the court. *Mathews v. Weber*, 423 U.S. 261 (1976). The court is charged with making a *de novo* determination of those portions of the Report to which specific objection is made and the court may accept, reject, or modify, in whole or in part, the recommendation of the Magistrate Judge, or recommit the matter to the Magistrate Judge with instructions. 28 U.S.C. § 636(b)(1).

and the court incorporates such without a recitation.

The plaintiff was advised of his right to file objections to the Report and Recommendation which was entered on the docket on March 26, 2009. The plaintiff did not file any objections to the Report.

After a careful review of the record, the applicable law, and the Report and Recommendation, the court finds the Magistrate Judge's recommendation to be proper. Accordingly, the Report and Recommendation is incorporated herein by reference and this action is dismissed without prejudice and without issuance and service of process.

IT IS SO ORDERED.

A handwritten signature in black ink, reading "Joseph F. Anderson, Jr." in a cursive script.

Joseph F. Anderson, Jr.  
United States District Judge

April 27, 2009  
Columbia, South Carolina